

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.4181 of 1998

Dated 04-04-2007

Between:

K.Prakash.

..... PETITIONER

AND

The Regional Manager, APSRTC Nizamabad Region, Nizamabad &
another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.4181 of 1998

ORDER:

Questioning the provisional seniority list of Assistant Depot Clerks/Controllers of Nizamabad region as on 16-09-1995, the present writ petition is filed.

Facts, in brief, are that the petitioner was appointed as a Conductor in APSRTC on 10-12-1970. His services were, however, regularized with effect from 01-03-1973. The petitioner states that, on his representation to regularize his services from the date of his initial appointment, the second respondent extended to him the benefit of regularization from an earlier date i.e. 01-11-1972. Petitioner's grievance is that, though he was extended the benefit of regularization from

01-11-1972, persons who were appointed after that date were promoted as Assistant Depot Clerks prior to his promotion on 27-06-1988. Petitioner would give the instance of one Sri P.Butchaiah who was appointed, and whose services were regularized along with him on 01-11-1972, was promoted as Assistant Depot Clerk with effect from 03-05-1981. Petitioner would contend that he had filed several representations despite which he was not given promotion as an Assistant Depot Clerk on par with Sri P.Butchaiah. Petitioner would further contend that the list of Assistant Depot Clerks/Controllers of Nizamabad region dated 16-09-1995 showed many persons, who were juniors to him and whose services were regularized along with him, as seniors to him in that region. Petitioner would illustrate the case of one Sri R.Subba Rao, whose initial appointment was 01-11-1972 but was promoted as Assistant Depot Clerk with effect from

15-08-1983.

No counter affidavit is filed on behalf of the respondents.

It is necessary to note that the petitioner has not arrayed either Sri P.Butchaiah or Sri R.Subba Rao, with whom he claims parity in treatment, as respondents in this writ petition. Admittedly, the petitioner was promoted as Assistant Depot Clerk on 27-06-1988, whereas, according to him, he ought to have been promoted to the said post with effect from

03-05-1981. Petitioner has kept quiet for nearly a decade, after his promotion, before invoking the jurisdiction of this Court under Article 226 of the Constitution of India, and would now contend, that as against the actual date of his promotion as an Assistant Depot Clerk on 27-06-1988, he ought to have been promoted as an Assistant Depot Clerk with effect from 03-05-1981. It is not known under what circumstances

Sri P.Butchaiah and Sri R.Subba Rao were promoted as Assistant Depot Clerks nor can this matter be examined in the absence of their being arrayed as respondents. It is only if the petitioner is held to have been promoted with effect from

03-05-1981 would he be entitled to be placed above

Sri P.Butchaiah or Sri R.Subba Rao in the seniority list of Assistant Depot Clerks necessitating correction of the seniority list dated 16-09-1995. I see no reason to exercise discretion under Article 226 of the Constitution of India to examine this matter in a writ petition filed after an inordinate and unexplained delay of a decade or so. The Supreme Court, in **Amrit Lal Berry, K. N. Kapur v. Collector of**

Central Excise Central Revenue^[1], held that by merely filing repeated or delayed representations, the petitioner cannot get over the obstacles which delay in approaching the Court creates. The petitioner has not shown cause, much less reasonable cause, for the

inordinate delay, of a decade, in invoking the jurisdiction of this Court under Article 226 of the Constitution of India.

The Writ Petition fails and is accordingly dismissed. However, in the circumstances, without costs.

04-04-2007

usd

[\[1\]](#) AIR 1975 SC 538